

**Exhibit A**

07/25/2002 12:45 FAX 6103258889

STATE FARM INS.

002

**SUMMONS IN A CIVIL ACTION****UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**NICHOLAS MARTINO; NICOLE MARTINO, a minor, by  
Marybeth Martino, her parent and natural guardian and  
MARYBETH MARTINO**

v.

**RICHARD CRAFT and JOHN HAMMERSCHMIDT**

**CIVIL ACTION NO. 02-4633****TO: (NAME AND ADDRESS OF  
DEFENDANT)**

*John Hammerschmidt  
7 Greenbriar Lane  
Paoli, PA 19301*

**YOU ARE HEREBY SUMMONED** and required to serve upon**Plaintiff's Attorney (Name and Address)**

Howard A. Rosenthal, Esq.  
Pelino & Lentz, PC  
One Liberty Place, 32nd flr.  
Philadelphia, PA 19103

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Michael E. Kunz, Clerk of Court

Date: 7/12/02

(By) Deputy Clerk

TRICIA A. JONES

EXHIBIT

Martino 5

7-21-03 8:11

TON

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIANicholas Martino,  
5 Gregory Lane  
Newtown Square, PA 19073

and

Nicole Martino, a minor, by  
Marybeth Martino, her parent and  
natural guardian  
5 Gregory Lane  
Newtown Square, PA 19073

and

Marybeth Martino  
5 Gregory Lane  
Newtown Square, PA 19073

Plaintiffs,

v.

Richard Craft  
659 Andover Road  
Newtown Square, PA 19073

and

John Hammerschmidt  
7 Greenbriar Lane  
Paoli, PA 19301

Defendants.

Civil Action No.

02cv4633

COMPLAINT

Plaintiffs, Nicholas Martino, Nicole Martino, a minor,  
by Marybeth Martino, her parent and natural guardian, and  
Marybeth Martino, in her own right, by their attorneys, bring  
this action against defendants, and aver as follows:

I. STATEMENT OF JURISDICTION AND VENUE

1. Jurisdiction is founded on this Court's federal  
admiralty jurisdiction pursuant to Article III, Section 2 of the  
United States Constitution and 28 U.S.C. § 1333 as the events or  
omissions giving rise to plaintiffs' claims occurred on the

Sassafras River, a navigable waterway, and were significantly related to traditional maritime activity.

2. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b) in that both defendants reside in this judicial district and in the Commonwealth of Pennsylvania.

## **II. THE PARTIES**

3. Nicholas Martino ("Martino") is an adult individual residing at 5 Gregory Lane, Newtown Square, Pennsylvania 19072.

4. Nicole Martino ("Nicole") is a minor residing with her parent and natural guardian, Marybeth Martino, at 5 Gregory Lane, Newtown Square, Pennsylvania 19073.

5. Marybeth Martino is an adult individual residing at 5 Gregory Lane, Newtown Square, Pennsylvania 19072 and is the wife of Nicholas Martino.

6. Richard Craft ("Craft") is an adult individual residing at 659 Andover Road, Newtown Square, Pennsylvania 19073.

7. John Hammerschmidt ("Hammerschmidt") is an adult individual residing at 7 Greenbriar Lane, Paoli, Pennsylvania 19301.

## **III. FACTS**

8. On or about July 15, 2000, Craft and Hammerschmidt were co-owners of a vacation residence located on the Sassafras River in or near Galena, Maryland.

9. The Sassafras River is used, or is susceptible of being used, as a highway for commerce over which trade and travel are or may be conducted and is, therefore, a navigable waterway.

10. Located at the residence were two water craft

known as "wave runners" which Hammerschmidt owned and had the right and ability to permit or prohibit others including Craft from using.

11. At all relevant times, Hammerschmidt knowingly permitted Craft and others to use the wave runners.

12. On July 15, 2000, Martino, his wife, Marybeth, and their daughter, Nicole, were visiting the defendants' vacation residence as invited guests of Craft.

13. At approximately 4 to 5 p.m., at Craft's suggestion, Craft, his son, Martino and Nicole took the wave runners out for a ride on the Sassafra River. Martino and Nicole were riding on one of the wave runners, while Craft and his son were riding on the other.

\* 14. At all relevant times, Craft had a duty to persons traveling on the Sassafra River to operate his wave runner in a safe manner and take all due care to avoid injuring others by his operation of the wave runner.

\* 15. While operating his wave runner, Craft, without prior warning, drove directly into Martino's wave runner injuring both Martino and his daughter, Nicole.

16. Following the impact, Martino had to drive his wave runner with his leg broken and bleeding severely for approximately five minutes until he could reach the shore.

17. After Martino reached shore, an EMT team performed emergency treatment until Martino was taken by medivac helicopter to the R. Adams Crowley Shock Trauma Center in Baltimore, Maryland.

18. Nicole was taken to a local hospital by her mother.

19. Martino sustained severe, permanent, painful and disabling physical injuries, including:

a. a type three open tibia fracture of the left leg which, to date, has, required 23 surgical procedures and multiple, extended hospital stays for treatment which has included the placing, setting and re-setting an external fixator; extensive muscle grafting; reconstructive surgery and skin grafting; bone graft surgery; the removal of additional destroyed muscle; installation of a rod; the insertion of a port in Mr. Martino's chest for antibiotic treatment and extensive rehabilitation;

b. the permanent destruction of otherwise healthy muscle and skin tissue;

c. the onset of a heavy staph infection and chronic osteomyelitis which, if the infection develops a resistance to antibiotics, may require amputation of Martino's left leg;

d. internal bleeding and aggravation of the staph infection;

e. a loss of flexibility in Martino's ankle, foot and calf, requiring him to walk in a labored fashion and the shortening of one of Martino's legs, which requires him to wear custom lifts;

f. permanent scarring; and

g. constant pain in Martino's leg.

20. Martino's physical injuries are permanent in nature and are continuing.

21. Martino's physical injuries have directly limited, if not eliminated, his ability to remain physically active.

22. As a direct and proximate result of the accident, Martino has had to rely on a wheelchair or crutches to walk, cannot engage in many physical activities which he had previously enjoyed, such as exercising, playing in an adult soccer league and performing household chores, which he must now hire someone to do.

23. Martino's doctors have considered him disabled since the date of the accident and his injuries presently restrict his movement which currently limits his ability to work.

\* 24. Because injuries from the accident precluded the international travel required by his employer, Martino lost his job and current and future salary, bonus opportunities and options.

25. As a further direct and proximate result of the accident, Martino has suffered a loss of past and future earnings.

26. Martino's physical injuries are permanent in nature and his damages are continuing.

27. Moreover, as a direct and proximate result of the acts and omissions of Craft, as otherwise set forth in this Complaint, Nicole sustained severe injuries, pain and suffering, including a left fibula fracture requiring a cast.

28. The injuries Nicole sustained prevented her from participating in her usual athletic activities, including a

swimming team, tennis and golf programs and part of her fall soccer season, from the time of the accident until October, 2001.

29. Nicole's physical injuries caused her great pain and anguish and required significant expense for her treatment and care.

**COUNT I: NEGLIGENCE**  
**(Nicholas Martino v. Richard Craft)**

30. Plaintiffs incorporate by reference Paragraphs 1 through 29 of this Complaint.

31. At all relevant times, Craft owed a duty to Martino to operate his wave runner in a safe manner and take all due care to avoid injuring Martino by his operation of the wave runner.

32. Craft failed to use due care and caution when, without prior warning, he drove directly into Martino's wave runner causing serious injury to Martino.

33. Under the circumstances, Craft's operation of the wave runner was unreasonable, negligent and in reckless disregard for the safety of Martino in that he:

a. failed to learn how to properly and safely operate the wave runner and take reasonably necessary safety and training courses for the operation of such a craft;

b. failed to give adequate warning that he was going to travel in the direction of Martino and Nicole;

c. failed to keep proper lookout and observe the wave runner being operated by Martino even though it could clearly be seen;

d. accelerated too quickly and traveled at an



excessive or unsafe speed;

e. failed to maintain control over his wave runner to avoid colliding with the wave runner operated by Martino;

f. failed to give Martino sufficient time to pass;

g. failed to give adequate room to stop his wave runner;

h. operated his wave runner while intoxicated or under the influence of alcohol; and

i. otherwise operated his wave runner in a unsafe, negligent and reckless manner.

34. The collision and resulting injuries were a direct and foreseeable consequence of Craft's unreasonable, negligent and reckless operation of the wave runner.

\* 35. Martino at all times operated his wave runner safely having signaled Craft that he was going to turn his wave runner around to head back to the residence, doing so in plain view of Craft and operating his vessel in a safe distance from Craft and otherwise navigating the wave runner in a safe manner.

36. As a direct and proximate result of Craft's negligent acts and omissions, Martino was injured and sustained severe damages.

WHEREFORE, plaintiff, Nicholas Martino, requests that this Court enter judgment in his favor in an amount in excess of \$75,000, together with interest and costs of suit.

**COUNT II: NEGLIGENCE**  
**(Nicole Martino v. Richard Craft)**

37. Plaintiffs incorporate by reference Paragraphs 1 through 36 of this Complaint.

38. At all relevant times, Craft owed a duty to Nicole to operate his wave runner in a safe manner and take all due care to avoid injuring her by his operation of the wave runner.

39. Craft failed to use due care and caution for the safety of Nicole when, without prior warning, Craft drove directly into the side of the wave runner on which Nicole was riding.

40. The collision and resulting injuries were a direct and foreseeable consequence of Craft's unreasonable, negligent and reckless operation of the wave runner.

41. As a direct and proximate result of Craft's negligent acts and omissions, Nicole was injured and sustained severe damages.

WHEREFORE, plaintiff, Nicole Martino, a minor, by Marybeth Martino, her guardian, requests that this Court enter judgment in her favor in an amount in excess of \$75,000, together with interest and costs of suit.

**COUNT III: NEGLIGENCE PER SE**  
**(Nicholas Martino v. Richard Craft)**

42. Plaintiffs incorporate by reference Paragraphs 1 through 41 of the Complaint.

43. Craft's unreasonable, negligent and reckless operation of the wave runner, as set forth in Paragraph 33 of this Complaint, violated, inter alia, Maryland Natural Resources Code § 8-701 et. seq., Code of Maryland Regulations 08.18.02.05, ✓

08.18.01.03, 08.18.01.05, 08.18.01.07 and 08.18.01.04, and the Federal International-Inland Navigation Rules.

44. Craft's violation of these statutes and regulations constitutes negligence per se.

45. Martino was within the class of persons these statutes and regulations were designed to protect and the harm which he sustained was the kind these statutes and regulations were designed to prevent.

46. Craft's violations of these statutes and regulations were a direct and proximate cause of Martino's injury and damage.

WHEREFORE, plaintiff, Nicholas Martino, requests that this Court enter judgment in his favor in an amount in excess of \$75,000, together with interest and costs of suit.

**COUNT IV: NEGLIGENCE PER SE**  
**(Nicole Martino v. Richard Craft)**

47. Plaintiffs incorporate by reference Paragraphs 1 through 46 of the Complaint.

48. Craft's unreasonable, negligent and reckless operation of the wave runner, as set forth in Paragraph 33 of this Complaint, violated, inter alia, Maryland Natural Resources Code § 8-701 et. seq., Code of Maryland Regulations §§ 08.18.02.05, 08.18.01.03, 08.18.01.05, 08.18.01.07 and 08.18.01.04, and the Federal International-Inland Navigation Rules.

49. Craft's violation of these statutes constitutes negligence per se.

50. Nicole was within the class of persons these statutes were designed to protect and the harm which she sustained was the kind these statutes were designed to prevent.

51. Craft's violations of these statutes were a direct and proximate cause of Nicole's injury and damage.

WHEREFORE, plaintiff, Nicole Martino, a minor, by Marybeth Martino, her guardian, requests that this Court enter judgment in her favor in an amount in excess of \$75,000, together with interest and costs of suit.

**COUNT V: NEGLIGENCE**  
**(Nicholas Martino v. John Hammerschmidt)**

52. Plaintiffs incorporate by reference Paragraphs 1 through 51 of this Complaint.

53. At the time of the accident, the wave runners were owned by and under the control of Hammerschmidt, who had the right and ability to permit or prohibit use of the wave runners by Craft.

54. From the time that Hammerschmidt initially permitted Craft to use the wave runners up through and including July 15, 2000, Hammerschmidt knew or should have known that Craft, because of his inexperience operating the wave runners, reckless propensities and previous unsafe operation of the wave runners, would likely operate the wave runners in a manner involving unreasonable risk of physical harm to others, including Martino.

55. Hammerschmidt acted unreasonably and negligently in permitting, or failing to prohibit, Craft's use of the wave runners.

56. Hammerschmidt's negligent entrustment of the wave runners to Craft was the proximate cause of Martino's injuries and damage.

WHEREFORE, plaintiff, Nicholas Martino, requests that this Court enter judgment in his favor in an amount in excess of \$75,000, together with interest and costs of suit.

**COUNT VI: NEGLIGENCE**  
**(Nicole Martino v. John Hammerschmidt)**

57. Plaintiffs incorporate by reference Paragraphs 1 through 56 of this Complaint.

58. At the time of the accident, the wave runners were owned by and under the control of Hammerschmidt, who had the right and ability to permit or prohibit use of the wave runners by Craft.

59. From the time that Hammerschmidt initially permitted Craft to use the wave runners up through and including July 15, 2000, Hammerschmidt knew or should have known that Craft, because of his inexperience operating the wave runners, reckless propensities and previous unsafe operation of the wave runners, would likely operate the wave runners in a manner involving unreasonable risk of physical harm to others, including Nicole.

60. Hammerschmidt acted unreasonably and negligently in permitting, or failing to prohibit, Craft's use of the wave runners.

61. Hammerschmidt's negligent entrustment of the wave runners to Craft was the proximate cause of Nicole's injuries and damage.

WHEREFORE, plaintiff, Nicole Martino, a minor, by Marybeth Martino, her guardian, requests that this Court enter judgment in her favor in an amount in excess of \$75,000, together with interest and costs of suit.

**COUNT VII: LOSS OF CONSORTIUM**  
**(Marybeth Martino v. Richard Craft)**

62. Plaintiffs incorporate by reference Paragraphs 1 through 61 of this Complaint.

63. At all relevant times, Craft owed a duty to Marybeth Martino to avoid interfering with her right to the aid, assistance, comfort, society, companionship and affection of her husband, Nicholas Martino.

64. As set forth above, Craft acted unreasonably and negligently in his operation of the wave runner, proximately causing serious injury and damage to Martino, her husband.

65. As a direct and proximate result of the negligent acts and omissions of Craft, as set forth in Paragraph 33 of the Complaint, Craft injured Martino in such a way as to deprive Marybeth Martino of her right to the aid, assistance, comfort, society, companionship and affection of her husband.

WHEREFORE, plaintiff, Marybeth Martino, requests that this Court enter judgment in her favor in an amount in excess of \$75,000, together with interests and costs of suit.

**COUNT VIII: LOSS OF CONSORTIUM**  
**(Marybeth Martino v. John Hammerschmidt)**

66. Plaintiffs incorporate by reference Paragraphs 1 through 65 of this Complaint.

67. At all relevant times, Hammerschmidt owed a duty to Marybeth Martino to avoid interfering with her right to the

aid, assistance, comfort, society, companionship and affection of her husband, Nicholas Martino.


68. As set forth above, Hammerschmidt acted unreasonably and negligently in permitting, or failing to prohibit, Craft's use of the wave runner, which proximately caused serious injury and damage to Martino.

69. As a direct and proximate result of Hammerschmidt's negligent entrustment of the wave runners, Nicholas Martino was injured in such a way as to deprive Marybeth Martino of her right to the aid, assistance, comfort, society, companionship and affection of her husband.

WHEREFORE, plaintiff, Marybeth Martino, requests that this Court enter judgment in her favor in an amount in excess of \$75,000, together with interests and costs of suit.

**OF COUNSEL:**

Pelino & Lentz, P.C.  
One Liberty Place  
1650 Market Street  
Thirty-Second Floor  
Philadelphia, PA 19103-7393  
215-665-1540

  
Howard A. Rosenthal  
Kevin C. Rakowski  
Attorneys for Plaintiffs,  
Nicholas Martino and Nicole  
Martino, a minor, by her  
parent and guardian,  
Marybeth Martino and  
Marybeth Martino, in her  
own right



MARTINO #6

STATE OF MARYLAND  
WATERCRAFT ACCIDENT REPORT

RECREATIONAL <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> BOTH <input type="checkbox"/>	MO DATE YEAR 07-16-00	TIME (MILITARY) 1921	DAY OF WEEK SAT	INCIDENT NUMBER 100017066 U
OTIFIED (MILIT) 1922	ACCIDENT SEVERITY (8) <input type="checkbox"/> Damage Only <input checked="" type="checkbox"/> Incapacitating Inj. <input type="checkbox"/> Possible Injury <input type="checkbox"/> Fatal <input type="checkbox"/> Non-incapacitating Inj. <input type="checkbox"/> Missing		ACCIDENT TYPE (9) <input type="checkbox"/> Grounding <input type="checkbox"/> Sinking <input type="checkbox"/> Collision Fix Object <input type="checkbox"/> Falls in Boat <input type="checkbox"/> Other (Specify) <input type="checkbox"/> Capsizing <input type="checkbox"/> Fire or Explosion <input type="checkbox"/> Collision Flo Object <input type="checkbox"/> Hit By Boat or Propeller <input type="checkbox"/> Flooding <input checked="" type="checkbox"/> Collision Vessel <input type="checkbox"/> Falls Overboard <input type="checkbox"/> Burns	
IE ARRIVED (MILIT) 1956	COLLISION TYPE (10) <input type="checkbox"/> Head On <input checked="" type="checkbox"/> Angle <input type="checkbox"/> Rear End <input type="checkbox"/> Other <input type="checkbox"/> Side Swipe			
TAL VESSELS OLVED: 2	LOCATION OF INCIDENT (BAY, RIVER, CREEK, COVE, LAKE, ETC.) SASSAFRASS RIVER		LOCATION CODE	NEAREST TOWN GALENA
DAMAGE TO PROPERTY HER THAN VESSEL		OBJECT N/A	OWNER NAME (FIRST, MIDDLE, LAST & ADDRESS) N/A	
				DAMAGE SEVERITY <input type="checkbox"/> Superficial <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Destroyed

## VESSEL NUMBER 1

OPERATOR NAME (FIRST, MIDDLE, LAST) RICHARD ELLIS CRAFT		SEX M	DATE OF BIRTH MO. DAY YEAR 01-28-60	INJURY 1	COND 2	LICENSE NUMBER (SPECIFY) PA OLN 18791192	
RESS (NUMBER AND STREET) 659 ANDOVER RD			CITY New Town	STATE PA	ZIP CODE 19073	HOME PHONE NUMBER 410-648-5647	
UPATION Marital Planner	EMPLOYER Wealth Advisory	ADDRESS 40 MONUMENT RD,			STATE PA	ZIP CODE 119073	WORK PHONE NUMBER 616-353-3033
LATOR BOATING EXPERIENCE NONE <input type="checkbox"/> UNDER 20 HRS <input type="checkbox"/> 20-100 HRS <input type="checkbox"/> 100-500 HRS <input checked="" type="checkbox"/> OVER 500 HRS				OPERATOR BOATING EDUCATION. <input type="checkbox"/> USCGA <input type="checkbox"/> STATE <input type="checkbox"/> USPS <input type="checkbox"/> LICENSED <input checked="" type="checkbox"/> NONE <input type="checkbox"/> OTHER			
ERS NAME (FIRST, MIDDLE, LAST) (Same as operator)		ADDRESS (NUMBER AND STREET)		CITY	STATE	ZIP CODE	PHONE NUMBER
MAKE OF VESSEL YAMAHA	MODEL XA800Y	TYPE PWC	PWC <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NAME OF VESSEL N/A		DOCUMENTED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	REGIST. OR DOCUMENT NUMBER MD2855BL
OR FURP	HULL MAT'L 2	FUEL 1	YEAR 00	LENGTH 10'5"	WIDTH 40"	DRAFT 12"	SERIAL NUMBER (HIN) YAMA 3165A000
EST. DAMAGE (\$) 50.00		EST. DAMAGE (\$) 50.00					
ENGINES 1	MAKE OF ENGINE YAMAHA	TYPE: <input type="checkbox"/> OUTBOARD <input type="checkbox"/> INBOARD/OUTBOARD <input checked="" type="checkbox"/> INBOARD <input checked="" type="checkbox"/> JET <input type="checkbox"/> OTHER				HORSEPOWER 120	YEAR 00
TION OF TRAVEL WEST	POINT OF IMPACT PORT MID	P.O.B 2	H.P. RATING N/A	LEGAL CAPACITY N/A	EST. SPEED 20	VESSEL INSURED <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN	
IBE DAMAGE TO VESSEL SCAPES IN The STARBOARD bow IBERG-GLASS.			DAMAGE SEVERITY <input type="checkbox"/> Disabling Damage <input type="checkbox"/> Other Damage <input checked="" type="checkbox"/> Functional Damage <input type="checkbox"/> No Damage		NAME OF INSURANCE CO. AND AGENT N/A		
REMOVED TO N/A			BY N/A				
ANT LOCATION N/A		OCCUPANT NAME (A) RICHARD CRAFT		ADDRESS		DOB 1-28-60	SEX M
						INJURY 1	COND. 2

ALL CODE	INJURY SEVERITY CODE	CONDITION CODE	FUEL CODE
1. No Injury	1. No Injury	1. Apparently Normal	1. Gasoline
2. Possible Injury	2. Possible Injury	2. Had Been Drinking	2. Diesel
3. Non-Incapacitating	3. Non-Incapacitating	3. Other (Emotional prob. Etc.)	
4. Incapacitating Inj.	4. Incapacitating Inj.		
5. Fatal	5. Fatal		
6. Missing	6. Missing		
7. Fatigued			
8. Apparently Asleep			



VESSEL NUMBER 2				INCIDENT NUMBER:			
OPERATOR NAME (FIRST, MIDDLE, LAST)			SEX	DATE OF BIRTH MO. DAY YEAR	INJURY	COND.	LICENSE NUMBER (SPECIFY)
NICHOLAS WALTER MARTINO			M	08-19-55	4	1	PA OLN/16 560602
ADDRESS (NUMBER AND STREET)			CITY		STATE	ZIP CODE	HOME PHONE NUMBER
5 GREGORY LN			Newtown Square		PA	19073	610-353-3098
OCCUPATION	EMPLOYER	ADDRESS		STATE	ZIP CODE	WORK PHONE NUMBER	
SALES MAN	MEHIT K/INDUSTRY	Be N/Alem		PA	N/A	215-634-4292	
OPERATOR BOATING EXPERIENCE				OPERATOR BOATING EDUCATION			
NONE <input type="checkbox"/> UNDER 20 HRS <input checked="" type="checkbox"/> 20-100 HRS <input type="checkbox"/> 100-500 HRS <input type="checkbox"/> OVER 500 HRS				USCGA <input type="checkbox"/> STATE <input type="checkbox"/> USPS <input type="checkbox"/> LICENSED <input type="checkbox"/> NONE <input checked="" type="checkbox"/> OTHER <input checked="" type="checkbox"/>			
OWNERS NAME (FIRST, MIDDLE, LAST)			ADDRESS (NUMBER AND STREET)		CITY	STATE	ZIP CODE
RICHARD CRAFT			659 ANDOVER RD		NEWTOWN SQUARE		PHONE NUMBER 610-
MAKE OF VESSEL		MODEL	TYPE	PWC <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NAME OF VESSEL		DOCUMENTED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
YAMAHA		XA800Y	PWC		N/A		REGIST. OR DOCUMENT NUMBER MD2852BL
COLOR	HULL MAT'L	FUEL	YEAR	LENGTH	WIDTH	DRAFT	SERIAL NUMBER (HIN)
HT/WHITE	2	1	00	16'5"	40"	12"	YAMA 3166A000
OF ENGINES		MAKE OF ENGINE		TYPE: <input type="checkbox"/> OUTBOARD <input type="checkbox"/> INBOARD/OUTBOARD <input checked="" type="checkbox"/> INBOARD <input type="checkbox"/> JET <input type="checkbox"/> OTHER		EST. DAMAGE (\$) (BY WHO?)	
1		YAMAHA				150.00	
VEHICLE OF TRAVEL		POINT OF IMPACT	P.O.B	H.P. RATING	LEGAL CAPACITY	EST. SPEED	VESSEL INSURED
SOUTHWEST		PORT MID	2	N/A	N/A	20 KNOTS	<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN
CRUISE DAMAGE TO VESSEL			DAMAGE SEVERITY		NAME OF INSURANCE CO. AND AGENT		
SCRAPES TO PORT mid Fiberglass, TORN SEAT.			<input type="checkbox"/> Disabling Damage <input type="checkbox"/> Other Damage <input checked="" type="checkbox"/> Functional Damage <input type="checkbox"/> No Damage		N/A		
VESSEL REMOVED TO				BY			
OCCUPANT LOCATION		OCCUPANT NAME ADDRESS					
<div style="border: 1px solid black; padding: 5px; width: fit-content;">(1A) (2)</div>		1. NICHOLAS MARTINO 5 GREGORY LN, NEWTOWN SQUARE PA					
		2. NICOLE MARTINO 11 11 11 4-25-90 F 1					
		3.					
		4.					
		5.					
		6.					
NAME		ADDRESS			DOB	TELEPHONE	
1.							
2.							
3.							
4.							
5.							
6.							
WAS TAKEN?		INVESTIGATED AT SCENE?	INVESTIGATION COMPLETE?	ALCOHOL TEST		TEST RESULTS	
Yes	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> VICTIM <input checked="" type="checkbox"/> None Offered <input type="checkbox"/> Blood <input type="checkbox"/> Breathalyzer		1 <input type="checkbox"/> 2 <input type="checkbox"/> VICTIM <input type="checkbox"/> Post Mortem <input type="checkbox"/> Refused		1 <input checked="" type="checkbox"/> BAC 2 <input checked="" type="checkbox"/> BAC Victim <input type="checkbox"/> P
No	<input type="checkbox"/> No	<input type="checkbox"/> No					
FUEL CODE		INJURY SEVERITY CODE		CONDITION CODE		FUEL CODE	
1. Gasoline 2. Diesel 3. Aluminum 4. Steel 5. Other		1. No Injury 2. Possible Injury 3. Incapacitating Inj. 4. Fatal 5. Near Incapacitating 6. Missing		1. Apparently Normal 2. Had Been Drinking 3. Physical Defect 4. Other handicaps 5. Emotional prob. Etc. 6. Continuous Unknown		6. 0 7. Fagued 8. Apparently Asleep 9. Unknown	

<b>INCIDENT NUMBER</b> <u>100017066 U</u>			
<b>OPERATION AT TIME OF ACCIDENT</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> CRUISING  <input type="checkbox"/> APPROACHING DOCK  <input type="checkbox"/> LEAVING DOCK  <input type="checkbox"/> RACING  <input type="checkbox"/> TOWING  <input type="checkbox"/> BEING TOWED  <input type="checkbox"/> AT ANCHOR  <input type="checkbox"/> TIED TO DOCK  <input type="checkbox"/> WHITEWATER OPERATION </div> <div style="width: 48%;"> <input type="checkbox"/> FUELING  <input type="checkbox"/> FISHING/HUNT  <input type="checkbox"/> WATER SKIING  <input type="checkbox"/> SCUBA DIVING  <input type="checkbox"/> SWIMMING  <input checked="" type="checkbox"/> MANEUVERING  <input type="checkbox"/> DRIFTING  <input type="checkbox"/> UNKNOWN  <input type="checkbox"/> OTHER (Specify) </div> </div>		<b>WEATHER</b> <input type="checkbox"/> Clear <input checked="" type="checkbox"/> Cloudy <input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Hazy <input type="checkbox"/> Fog <input type="checkbox"/> Unknown	
<b>WIND</b> <input type="checkbox"/> None <input checked="" type="checkbox"/> Light (0-6 MPH) <input type="checkbox"/> Moderate (7-15 MPH) <input type="checkbox"/> Strong (15-25 MPH) <input type="checkbox"/> Storm (Over 25 MPH) <input type="checkbox"/> Unknown  Wind Direction <u>WEST</u> Est. Air Temp <u>80</u>		<b>WATER</b> <input checked="" type="checkbox"/> Calm <input type="checkbox"/> Choppy <input type="checkbox"/> Rough <input type="checkbox"/> Very Rough <input type="checkbox"/> Strong Current <input type="checkbox"/> Flood <input type="checkbox"/> Ebb <input type="checkbox"/> Unknown Est. Temp <u>68</u>	
<b>LIGHT</b> <input checked="" type="checkbox"/> Day <input type="checkbox"/> Dawn <input type="checkbox"/> Dusk <input type="checkbox"/> Dark <input type="checkbox"/> Moon <input type="checkbox"/> Artificial <input type="checkbox"/> Unknown			

<b>FFIC</b>  ight  Medium  Heavy  Longest  Unknown	<b>REQUIRED EQUIPMENT ON BOARD</b>						<b>CONTRIBUTING FACTORS</b>							
	<b>VESSEL 1</b>				<b>VESSEL 2</b>				<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;">           Personal Flotation Devices            Victim Wearing PFD            Fire Extinguishing Device            Flame Arrestor            Navigation (Lights, Shapes, Whistles, Foghorns, Bells, etc) </div> <div style="width: 48%;"> <input type="checkbox"/> Excessive Speed  <input type="checkbox"/> No Proper Lookout  <input type="checkbox"/> Operator Inattention  <input type="checkbox"/> Operator Inexperience  <input type="checkbox"/> Negligent/Rockless Operation  <input type="checkbox"/> Overloading  <input type="checkbox"/> Improper loading  <input type="checkbox"/> Alcohol Use  <input type="checkbox"/> Drug Use  <input type="checkbox"/> Fault of Other Person </div> </div>					
	Yes No		Used Unk		Yes No		Used Unk							
	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>							
<b>AID ADMINISTERED BY:</b> <input type="checkbox"/> Refused <input checked="" type="checkbox"/> None <input type="checkbox"/> Unknown <input type="checkbox"/> Other (Specify)						<b>TIME EMS REQUESTED:</b> <u>1921</u>		<b>INJURED TAKEN BY:</b> <u>MSP TRAPER 6</u>		<b>CHARGE - LIST SECTION</b> <input checked="" type="checkbox"/> Yes <u>NR 8-704 / 08.18.02.05L</u> <input type="checkbox"/> No				
<b>EMS ARRIVED TIME:</b> <u>1935</u>						<b>INJURED TAKEN TO:</b> <u>BALTIMORE SHOCK TRAUMA</u>		<b>CHARGE - LIST SECTION</b> <input checked="" type="checkbox"/> Yes <u>NR 8-704 / 08.18.02.05L</u> <input type="checkbox"/> No						

AM (Label the vessel(s) with their respective number 1, 2, etc.)

SHOW NORTH BY ARROW



mb2852 BL

mb2855 BL

INCIDENT NUMBER: 100017066 U

## NARRATIVE DESCRIPTION

MR. RICHARD CRAFT WAS THE OPERATOR OF VESSEL #1 MD 2855 BL.

MR. NICHOLAS MARTINO WAS THE OPERATOR OF VESSEL #2 MD 2852 BL.

BOTH INDIVIDUALS WERE SITTING ALONG SIDE EACH OTHER AT THE PASSAGEWAY TALKING. THEY BOTH TOOK OFF AT THE SAME TIME UP ON PLANE, ESTIMATED SPEED WAS APPROX. 20 KNOTS. BOTH SKIS TURNED INTO ONE ANOTHER. MR. CRAFT'S SKI STRUCK MR. MARTINO'S SKI ON ITS PORT MID SIDE. THERE WAS DAMAGE TO THE PORT MID SIDE FIBER GLASS AND A TEAR IN THE SEAT ALONG WITH PAINT TRANSFER. MR. CRAFT'S SKI RECEIVED DAMAGE TO THE STARBOARD BOW (CHIPS IN THE FIBERGLASS) AS A RESULT MR. MARTINO WAS FLOWN TO Shock TRAUMA IN BALTIMORE AND TREATED FOR A BROKEN Leg.

COATING ACCIDENT REPORT GIVEN TO:

VESSEL 1

Yes ☒ No ☐

VESSEL 2

Yes ☒ No ☐

VESSEL 3

Yes ☐ No ☐

SUPPLEMENTAL REPORT ATTACHED

Yes ☐ No ☒

STATUS

OPEN ☐CLOSED ☒SUSPENDED ☐

REPORTING OFFICER

L. ROBERT KERSEY

ID NUMBER

1316

REPORTING AGENCY

NRP

DATE

7-15-00

WITNESSED BY: (Original Investigator's Signature)

L. Robert Alexander

ID NUMBER

1227

ASSISTING WITH INVESTIGATION

YES ☐ NO ☒

DATE

7-27-00

WITNESSED BY:

L. Robert Alexander

DATE

7-26-00

APPROVED BY

L. Q. Brown

DATE

7/30/00

## **Exhibit B**

NICHOLAS MARTINO

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
CIVIL ACTION NO. 02-4633

NICHOLAS MARTINO;	)	DEPOSITION UPON
NICOLE MARTINO, a minor,	)	
by Marybeth Martino, her	)	ORAL EXAMINATION
parent and natural guardian,	)	
and MARYBETH MARTINO,	)	OF
	)	
Plaintiffs,	)	NICHOLAS MARTINO
	)	
- vs -	)	
	)	
RICHARD CRAFT and	)	
JOHN HAMMERSCHMIDT,	)	
	)	
Defendants.	)	

-----

TRANSCRIPT OF DEPOSITION, taken by and  
before SHAMEKA MASON, Certified Court Reporter and  
Notary Public, at the Law Offices of BENNETT,  
BRICKLIN & SALTZBURG, 1601 Market Street, 16th  
Floor, Philadelphia, Pennsylvania, on Monday, July  
21, 2003, commencing at 10:09 a.m.

ORIGINAL

REPORTING SERVICE ASSOCIATES (RSA)  
A Veritext Company  
1845 Walnut Street-15th Floor  
Philadelphia, PA 19103  
(215) 241-1000

NICHOLAS MARTINO

28

1 house?

2 A. I don't.

3 Q. Can you tell me a little bit more about the  
4 conversation you had with Rick about using the  
5 WaveRunner? Where were you? How did it unfold?  
6 What was said?

7 A. We were in the house. The rain stopped and  
8 essentially there was an opportunity then to go  
9 out on the WaveRunners. And we both agreed that  
10 yes, let's go out on the WaveRunners. The river  
11 was empty and so we went out, put them in the  
12 water and went out.

13 Q. There's a pool at the house, correct?

14 A. Yes. There is.

15 Q. Were people using the pool and otherwise  
16 using the other facilities that were available at  
17 the house before you put in WaveRunners into the  
18 water?

19 A. When Marybeth and I and Nicole arrived,  
20 they were sitting around the pool. We sat around  
21 the pool with them, spoke for a while and then  
22 they gave us a tour of the home and we sort of  
23 settled in.

24 Q. Did you have anything to eat there before

NICHOLAS MARTINO

29

1 you operated the WaveRunner?

2 A. Not at their home. We had some lunch on  
3 the way down.

4 Q. Did you have anything to drink before you  
5 -- between the time you arrived and the time that  
6 you operated the WaveRunner of an alcoholic  
7 nature?

8 A. I had one gin and tonic.

9 Q. What size, if you remember?

10 A. I don't recall.

11 Q. Did you make it yourself or someone gave it  
12 to you?

13 A. I can't remember that.

14 Q. It was one drink?

15 A. Yes.

16 Q. About how long before you operated the  
17 WaveRunner did you finish the drink?

18 A. About an hour.

19 Q. Did you see Mr. Craft drink anything of an  
20 alcoholic nature before -- while you were present  
21 but before he operated the WaveRunner?

22 A. We were all socializing, so yes.

23 Q. Do you know how many things you saw him  
24 drink?

## **Exhibit C**



Martino, et al. vs Craft, et al.

**COPY**

Richard Craft  
07/24/2003

Page 1

1 UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3 Civil Action No. 02-4633

4 -----x  
5 NICHOLAS MARTINO, et. al,

6 Plaintiff,

7 - vs -

8 RICHARD CRAFT, et. al,

9 Defendant,  
10 -----x

11 Deposition Testimony of RICHARD CRAFT

12  
13 1601 Market Street  
14 Philadelphia, PA

July 24, 2003  
10:16 a.m.

15 IT IS HEREBY STIPULATED and agreed that the  
16 reading, sealing, and signing of the within  
transcript are waived;

17 IT IS FURTHER STIPULATED and agreed that all  
objections except as to the form of the question  
18 are reserved to the time of trial.  
19  
20  
21  
22  
23

LEARY REPORTING

24 112 West Main Street, Ste. 200  
25 Mechanicsburg, Pennsylvania 17055  
(717) 233-2660 Fax (717) 691-7768

1 careful. It's a little bit second nature.

2 Q You said it's like second nature.

3 Is that what you just said?

4 A You asked me if I had any need to  
5 caution him, and I said no. You know if you're  
6 going fast because you feel it and you know if  
7 you are going slow. It was kind of irrelevant.

8 Q In your experience operating the  
9 wave runners, does common sense play a role in  
10 determining that kind of thing?

11 MS. CARLOS: Objection.

12 A Certainly sense is a good attribute.

13 Q How long were you two out there just  
14 by yourselves?

15 A Probably greater than ten minutes  
16 and less than 20 minutes. I don't wear a watch.  
17 I can't be specific.

18 Q I understand that. Did you have any  
19 alcoholic beverages before you took the wave  
20 runner out?

21 A I think I had one, yes.

22 Q Do you know what it was?

23 A I think it was a rum drink.

24 Q Do you know if Mr. Martino had any  
25 alcoholic beverages before he took it out?

Martino, et al. vs Craft, et al.

Richard Craft  
07/24/2003

Page 51

1 A Yes.

2 Q Yes?

3 A Yes.

4 Q Do you know how many?

5 A Just one or two.

6 Q Do you know what he was drinking?

7 A Gin, I believe.

8 Q Were other people, and by that I  
9 strictly mean the adults, drinking at the house  
10 at the same time you and Mr. Martino had those  
11 beverages?

12 A Yes.

13 Q Did you make your own rum drink?

14 A I did.

15 Q Did you make Mr. Martino's gin  
16 drink?

17 A I don't remember.

18 Q Then I assume you don't know who  
19 did?

20 A Correct.

21 Q Is the rum drink the only drink that  
22 you had before you went out on the wave runner?

23 A Yes.

24 Q Did you have the rum at the house or  
25 did you have to go to the liquor store to get it?

## **Exhibit D**

NICHOLAS MARTINO

41

1 go to Saturday morning. I believe it was a  
2 make-up swim meet. So we were with her.

3 Q. Your daughter being Nicole?

4 A. Nicole. At our country club.

5 Q. Had you had a full night's sleep the night  
6 before as well?

7 A. Yes.

8 Q. Were you taking any kind of medication on  
9 July 15, 2000?

10 A. No.

11 Q. Before you operated the WaveRunners by  
12 yourselves, did you feel impaired in any capacity  
13 as a result of the gin and tonic or anything else?

14 A. No.

15 Q. Was there anything about how Mr. Craft was  
16 behaving, in your observation, that led you to  
17 believe that he was impaired in any capacity to  
18 operate the WaveRunner?

19 A. No.

20 Q. When Nicole got on the WaveRunner and you  
21 set out for your ride, did you feel comfortable  
22 with having her on there with you?

23 A. I felt sufficiently familiar with the  
24 WaveRunner being out prior to that. Yes.

## **Exhibit E**

MARYBETH MARTINO

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
CIVIL ACTION NO. 02-4633

NICHOLAS MARTINO;	)	DEPOSITION UPON
NICOLE MARTINO, a minor,	)	
by Marybeth Martino, her	)	ORAL EXAMINATION
parent and natural guardian,	)	
and MARYBETH MARTINO,	)	OF
	)	
Plaintiffs,	)	MARYBETH MARTINO
	)	
- vs -	)	
	)	
RICHARD CRAFT and	)	
JOHN HAMMERSCHMIDT,	)	
	)	
Defendants.	)	

-----

TRANSCRIPT OF DEPOSITION, taken by and  
before SHAMEKA MASON, Certified Court Reporter and  
Notary Public, at the Law Offices of BENNETT,  
BRICKLIN & SALTZBURG, 1601 Market Street, 16th  
Floor, Philadelphia, Pennsylvania, on Monday, July  
21, 2003, commencing at 4:36 p.m.

ORIGINAL

REPORTING SERVICE ASSOCIATES (RSA)  
A Veritext Company  
1845 Walnut Street-15th Floor  
Philadelphia, PA 19103  
(215) 241-1000

MARYBETH MARTINO

45

1 drink something alcoholic before he operated the  
2 WaveRunner?

3 A. That was the last drink I saw him drink.

4 Q. Do you know how long that was before he  
5 went out on the WaveRunner?

6 A. It was maybe an hour before.

7 Q. Did you have an opportunity -- other than  
8 when he said to Nick come on, let's take the  
9 WaveRunners out, did you have an opportunity to  
10 see him as he -- he being Mr. Craft -- got ready  
11 to get on the WaveRunner that day?

12 A. Yes.

13 Q. Did he appear to you to be impaired in any  
14 fashion?

15 A. No.

16 Q. Did your husband appear to you to be  
17 impaired in any fashion?

18 A. No.

19 Q. How long were they gone with the children  
20 before you knew something was wrong?

21 A. They weren't gone that long. We stood  
22 outside and watched them for a while, and then  
23 they went down the river and then we went inside  
24 because we were just getting dinner. Dinner was



## **Exhibit F**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Nicholas Martino, et al.

## Plaintiffs

**v.**

Richard Craft, et al.

**Defendants.**

03 AUG 18 PM 9:51

Civil Action No.

**02-CF-V4633**

# PLAINTIFF'S PRETRIAL MEMORANDUM

Pursuant to this Court's Order dated June 17, 2003, plaintiffs submit this Pretrial Memorandum in accordance with Local Civil Rule 16(c).

BRIEF STATEMENT OF CLAIMS.

Plaintiffs brought this action against defendants Richard Craft and John Hammerschmidt for injuries and damages sustained by Nicholas Martino and Nicole Martino due to the negligent operation of a watercraft known as a "wave runner" by Richard Craft ("Craft") and negligent entrustment of the wave runner by John Hammerschmidt ("Hammerschmidt") to Craft. This Court has jurisdiction pursuant to Article III, Section 2 of the United States Constitution and 28 U.S.C. § 1333, as the events pertaining to this action occurred on the Sassafras River, a navigable waterway, and were significantly related to traditional maritime activity.

Craft and Hammerschmidt are likewise liable to Marybeth Martino for the damages she incurred due to the loss of society, assistance, aid, and comfort of her husband Nicholas Martino as a result of the severe injuries Nicholas Martino endured due to

defendants' negligence.<sup>1</sup>

**BRIEF STATEMENT OF FACTS.**

Nicholas Martino was born on August 19, 1955 and is presently 48 years of age. Prior to the accident, Nicholas was a successful executive, specializing in international business development. He enjoyed an active family and social life with his wife Marybeth Martino and children Nicole and Kathy. On July 15, 2000, Nicholas' life forever changed when he took what he expected would be a relaxing weekend visit with his family and the Craft family a vacation home in Galena, Maryland, located on the Sassafras River, owned by Craft and Hammerschmidt. Located at the vacation home were a pair "wave runners" owned solely by Hammerschmidt.

Late in the afternoon on July 15, 2000, Nicholas and his daughter, Nicole, and Craft and his son, took both wave runners out on the Sassafras River. At the end of their ride, Nicholas and Craft met at a point up river from the Craft residence and stopped, side by side parallel to the river bank, to discuss returning to the house for dinner. The Martino's wave runner was situated to the right of Craft, several feet from the south bank of the River.

After discussing returning to the house, Craft instructed Nicholas, who was unfamiliar with that particular waterway, that he would have to make a left turn towards the house, requiring Nicholas to cross in front of Craft, as the bank was too close

---

<sup>1</sup>The parties have agreed to settle the claims of the minor, Nicole Martino. Settlement documents are being finalized, along with the minor's compromise, which will be submitted to the Court for approval.

and the water too shallow for Nicholas to maneuver the wave runner in the direction of the Craft residence.

Nicholas Martino then began to proceed forward and make a left turn in order to head down river. As he was crossing in front of Craft's wave runner, Craft, abruptly and without warning, accelerated and crashed his wave runner into the left side of the Martinos' wave runner, striking Nicholas' leg with the bow of the Craft wave runner. The collision caused a severe "type three" open tibia fracture of Nicholas' left leg. Nicole's left leg also was broken by the impact of the Craft wave runner.

Bleeding profusely, and with a portion of his tibia bone protruding through the skin, Nicholas had to reposition the bone back into his leg and subsequently drive his wave runner back to the Craft residence. A local EMT team performed emergency treatment until Nicholas could be taken by medivac helicopter to the R. Adams Crowley Shock Trauma Center in Baltimore, Maryland, where he spent the next several weeks receiving multiple surgical procedures in an effort to save his leg.

Since the accident caused by defendants, Nicholas has endured more than 23 surgeries, including the application of multiple fixation devices and braces, bone and skin grafting, placement of a catheter for antibiotic treatment. Nicholas not only anticipates future surgery but also, as he currently suffers from osteomyelitis (a permanent bone infection caused by contamination of the open wound by river water which has flared-up twice requiring aggressive antibiotic treatment each time), it is anticipated that he will more likely than not require amputation of the left leg below the knee. Martino continues to

have difficulty walking, is limited in his daily activities and in the number of hours he can work.

Craft and Hammerschmidt's negligent conduct solely and proximately caused the Martinos' injuries and damage. The evidence will show that Craft negligently drove his wave runner (which Hammerschmidt owned) directly into the wave runner operated by Nicholas, and on which Nicole Martino was a passenger. The evidence will show that Craft operated his wave runner in an unsafe and reckless manner and failed to keep a proper lookout for the Martinos, keep control of the wave runner and maintain proper course and speed.

Since that date, Nicholas has endured, and will continue to endure, exceptional pain, suffering and loss. These injuries have also directly affected his family, including his wife, Marybeth, who has suffered through her husband's inability to perform his family obligations and duties, and the lost companionship and society of the marriage.

**DAMAGES.**

Plaintiffs have sustained the following damages as a direct and proximate result of defendants' negligence:

1. Costs for medical treatments associated with Nicholas Martino's physical injury in the amount of \$590,498.02.
2. Lost income and benefits, including past and future earnings, in the amount of \$1,752,341.
3. Damages in an amount of \$206,743 resulting from Nicholas' inability to perform certain household functions due to his injuries.
4. Damages in an amount to be determined by the jury

for pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses suffered by Nicholas and Marybeth Martino as a result of the defendants' unlawful conduct.

**WITNESSES.**<sup>2</sup>

**A. Liability.**

1. Nicholas Martino  
5 Gregory Lane  
Newtown Square, PA 19073

Mr. Martino will testify concerning the circumstances surrounding the collision on July 15, 2000, his injuries, his treatments and the consequences of the injury.

2. Marybeth Martino  
5 Gregory Lane  
Newtown Square, PA 19073

Mrs. Martino will testify concerning the circumstances surrounding the collision on July 15, 2000, Nicholas Martino's injuries, and the consequences of the injury, including the loss of Mr. Martino's aid, society and companionship.

3. Nicole Martino  
5 Gregory Lane  
Newtown Square, PA 19073

Nicole Martino will testify regarding the circumstances surrounding the collision on July 15, 2000.

4. Donald A. Kovalski, M.D.  
Falcon Center  
525 West Chester Pike  
Suite 203  
Havertown, PA 19083

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<sup>2</sup>Plaintiffs reserve the right to call any witnesses identified by defendants and additional witnesses in their case in chief to the extent information subsequently disclosed by defendants requires the introduction of additional testimony by plaintiffs. Moreover, plaintiffs reserve the right to identify and call additional witnesses for purposes of rebuttal.

5. Alan L. Jones, M.D.  
22 South Greene Street  
Baltimore, MD 21201
6. Stephen Harlin, M.D.  
Marple Commons  
2000 Sproul Road  
Suite 200  
Broomall, PA 19008
7. Lawrence Mayer, M.D.  
2100 Keystone Avenue  
Suite 407  
Drexel Hill, PA 19026
8. Bradley C. Robertson, M.D.  
University of Maryland Shock and Trauma  
Plastic Surgery  
22 South Greene Street  
Baltimore, MD 21201
9. Joan C. Waller, M.D.  
2100 Keystone Avenue  
Suite 407  
Drexel Hill, PA 19026

Each of these individuals are expected to testify as to the injuries sustained by Nicholas Martino as a result of the accident.

10. Custodians of Records.

The Custodian of Records of each and every medical provider that has treated or seen Mr. Martino will be called in the event defendants do not stipulate as to the authenticity and admissibility of Mr. Martino's medical records and bills.

11. EMT Technicians and Helicopter Pilots.

The EMT Technicians and Helicopter Pilots who were at the scene of the July 15, 2000 accident will testify as to the facts and circumstances upon their arrival at the Craft residence as well as their treatment and transportation of Nicholas Martino.

12. Christopher T. Born, M.D.  
Penn Medicine at Cherry Hill  
Department of Orthopaedic Surgery  
409 Route 70 East  
Cherry Hill, NJ 008034

Dr. Born will testify that the physical injuries sustained by Nicholas Martino were caused by the accident occurring on July 15, 2000, including the osteomyelitis from which Martino now suffers and the likelihood that, as a result of defendants' negligence, Martino's left leg will need to be amputated in the future.

13. Dr. Kenneth W. Fisher, President  
Fisher Maritime Transportation  
147 Columbia Turnpike, Suite 203  
Florham Park, NJ 07932

Dr. Fisher will testify regarding Craft's negligent operation of the wave runner in violation of accepted navigational principles.

14. Mr. Richard Craft  
659 Andover Road  
Newtown Square, PA 19073-1411

Craft may be called, as of cross-examination, to testify regarding the accident.

15. John Hammerschmidt  
7 Greenbriar Lane  
Paoli, PA 19301

Hammerschmidt may be called, as of cross-examination, to testify regarding his knowledge of Craft's use of the wave runners.

16. Mrs. Regina Craft  
659 Andover Road  
Newtown Square, PA 19073-1411

Mrs. Craft may be called as of cross-examination, to testify regarding the accident.



17. Bryson Craft  
659 Andover Road  
Newtown Square, PA 19073-1411

Mr. Craft may be called, as of cross-examination, to testify regarding the accident.

**B. Damages.<sup>3</sup>**

1. Nicholas Martino  
5 Gregory Lane  
Newtown Square, PA 19073

Mr. Martino will testify regarding all aspects of his claims for damages in this case, including past and future medical costs, his employment and wage history, his current physical limitations and the pain and suffering he endured, and continues to endure, as a result of the accident.

2. Irene C. Mendelsohn, M.S., CRC  
1226 N. Woodbine Avenue  
Penn Valley, PA 19072

Ms. Mendelsohn will testify to Mr. Martino's vocational limitations as a result of the injuries he sustained in the accident.

3. David Crawford, Ph.D.  
Econsult Corporation  
3600 Market Street  
Philadelphia, PA 19104

Dr. Crawford will testify as to the economic damages which Nicholas Martino suffered as a result of the defendants' negligence.

---

<sup>3</sup>Plaintiffs reserve the right to call any of the witnesses as to liability also as to damages.

2. Plaintiffs intend to file a Motion In Limine seeking to preclude defendants from introducing any evidence or testimony related to Marybeth Martino's prior marital status.

3. Plaintiffs intend to file a Motion In Limine seeking to preclude defendants from introducing any testimony or evidence relating to prior litigation and awards received by Marybeth Martino.

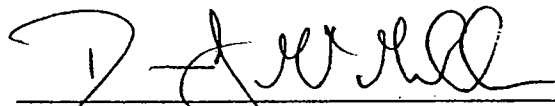
4. Plaintiffs intend to file a Motion In Limine seeking to preclude defendants from introducing any evidence or testimony related to or referring to any treatment Nicholas Martino received from Frederic J. Kwapien, M.D.

**ESTIMATE OF TRIAL TIME.**

Plaintiff estimates that the trial can be completed in four days.

**OF COUNSEL:**

Pelino & Lentz, P.C.  
One Liberty Place  
1650 Market Street  
Thirty-Second Floor  
Philadelphia, PA 19103-7393  
215-665-1540

  
Howard A. Rosenthal  
Darin J. McMullen  
Kevin C. Rakowski  
Attorneys for Plaintiffs,

## **Exhibit G**

STATE OF MARYLAND  
WATERCRAFT ACCIDENT REPORT

<input checked="" type="checkbox"/> RECREATIONAL <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> BOTH		MO <u>07</u> DATE <u>16</u> YEAR <u>00</u>	TIME (MILITARY) <u>1921</u>	DAY OF WEEK <u>SAT</u>	INCIDENT NUMBER <u>100017066 U</u>
OTIFIED (MILIT) <u>1922</u>	ACCIDENT SEVERITY (8) <input type="checkbox"/> Damage Only <input checked="" type="checkbox"/> Incapacitating Inj. <input type="checkbox"/> Possible Injury <input type="checkbox"/> Fatal <input type="checkbox"/> Non-incapacitating Inj. <input type="checkbox"/> Missing		ACCIDENT TYPE (9) <input type="checkbox"/> Grounding <input type="checkbox"/> Sinking <input type="checkbox"/> Collision Fix Object <input type="checkbox"/> Falls in Boat <input type="checkbox"/> Other (Specify) <input type="checkbox"/> Capsizing <input type="checkbox"/> Fire or Explosion <input type="checkbox"/> Collision Flo Object <input type="checkbox"/> Hit By Boat or Propeller <input type="checkbox"/> Flooding <input checked="" type="checkbox"/> Collision Vessel <input type="checkbox"/> Falls Overboard <input type="checkbox"/> Burns		COLLISION TYPE (10) <input type="checkbox"/> Head On <input checked="" type="checkbox"/> Angle <input type="checkbox"/> Rear End <input type="checkbox"/> Other <input type="checkbox"/> Side Swipe
TIME ARRIVED (MILIT) <u>1956</u>	LOCATION OF INCIDENT (BAY, RIVER, CREEK, COVE, LAKE, ETC.) <u>SASSAFRASS RIVER</u>		LOCATION CODE	NEAREST TOWN <u>GALENA</u>	COUNTY <u>KE</u>
TOTAL VESSELS INVOLVED: <u>2</u>	DAMAGE TO PROPERTY OTHER THAN VESSEL <u>N/A</u>		OWNER NAME (FIRST, MIDDLE, LAST & ADDRESS) <u>N/A</u>		DAMAGE SEVERITY <input type="checkbox"/> Superficial <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Destroyed
VESSEL NUMBER 1					
OPERATOR NAME (FIRST, MIDDLE, LAST) <u>RICHARD ELLIS CRAFT</u>		SEX <u>M</u>	DATE OF BIRTH MO <u>01</u> DAY <u>28</u> YEAR <u>60</u>	INJURY <u>1</u>	COND <u>2</u>
ADDRESS (NUMBER AND STREET) <u>659 ANDOVER RD</u>		CITY <u>NEW TOWN</u>	STATE <u>PA</u>	ZIP CODE <u>19073</u>	LICENSE NUMBER (SPECIFY) <u>PA OLN 18791 192</u>
OCCUPATION <u>Financial Planner</u>	EMPLOYER <u>WEALTH ADVISORY</u>	ADDRESS <u>40 MONUMENT RD,</u>	STATE <u>PA</u>	ZIP CODE <u>19073</u>	HOME PHONE NUMBER <u>410-648-5647</u>
PERATOR BOATING EXPERIENCE <input type="checkbox"/> NONE <input type="checkbox"/> UNDER 20 HRS <input type="checkbox"/> 20-100 HRS <input type="checkbox"/> 100-500 HRS <input checked="" type="checkbox"/> OVER 500 HRS		OPERATOR BOATING EDUCATION <input type="checkbox"/> USCGA <input type="checkbox"/> STATE <input type="checkbox"/> USPS <input type="checkbox"/> LICENSED <input type="checkbox"/> NONE <input type="checkbox"/> OTHER <u>N/A</u>			
OWNER'S NAME (FIRST, MIDDLE, LAST) <u>(SAME AS OPERATOR)</u>		ADDRESS (NUMBER AND STREET)		CITY	STATE
MAKE OF VESSEL <u>YAMAHA</u>		MODEL <u>XA800Y</u>	TYPE <u>PWC</u>	PWC <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	NAME OF VESSEL <u>N/A</u>
COLOR <u>BLACK</u>	HULL MAT'L <u>2</u>	FUEL <u>1</u>	YEAR <u>00</u>	LENGTH <u>10'5"</u>	WIDTH <u>40"</u>
DRAFT <u>12"</u>	SERIAL NUMBER (HIN) <u>YAMA 3165A000</u>		EST. DAMAGE (\$) (BY WHOM) <u>50.00</u>		
NO. OF ENGINES <u>1</u>	MAKE OF ENGINE <u>YAMAHA</u>	TYPE: <input type="checkbox"/> OUTBOARD <input type="checkbox"/> INBOARD/OUTBOARD <input checked="" type="checkbox"/> INBOARD <input checked="" type="checkbox"/> VET <input type="checkbox"/> OTHER	HORSEPOWER <u>120</u>		
YEAR <u>00</u>					
RECTION OF TRAVEL <u>WEST</u>	POINT OF IMPACT <u>PORT MID</u>	P.O.B. <u>2</u>	H.P. RATING <u>N/A</u>	LEGAL CAPACITY <u>N/A</u>	EST. SPEED <u>20</u>
VESSEL INSURED <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN					
SCRIBE DAMAGE TO VESSEL <u>SCRAPES IN THE STARBARD BOW FIBERGLASS.</u>		DAMAGE SEVERITY <input type="checkbox"/> Disabling Damage <input type="checkbox"/> Other Damage <input checked="" type="checkbox"/> Functional Damage <input type="checkbox"/> No Damage		NAME OF INSURANCE CO. AND AGENT <u>N/A</u>	
VESSEL REMOVED TO <u>N/A</u>		BY <u>N/A</u>			
OCCUPANT LOCATION <u>N/A</u>		OCCUPANT NAME <u>(A) RICHARD CRAFT</u>			
ADDRESS		DOB <u>1-28-60</u>	SEX <u>M</u>	INJURY <u>1</u>	COND. <u>2</u>
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CODES

ERIAL CODE Wood Fiberglass	3 Aluminum 4 Steel 5 Other	INJURY SEVERITY CODE 1. No Injury 2. Possible Injury 3. Non-Incapacitating 4. Incapacitating Inj. 5. Fatal 6. Missing	CONDITION CODE 1. Apparently Normal 2. Had Been Drinking 3. Physical Defects 4. Other handicaps (Emotional prob. Etc.) 5. Conditions Unknown	6. 7. Fatigued 8. Apparently Asleep 9. Using Drugs	FUEL CODE 1. Gasoline 2. Dies
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PAGE 1

<b>INCIDENT NUMBER</b> <u>100017066 U</u>					
<b>OPERATION AT TIME OF ACCIDENT</b> 1 2 <input type="checkbox"/> <input type="checkbox"/> CRUISING <input type="checkbox"/> <input type="checkbox"/> FUELING <input type="checkbox"/> <input type="checkbox"/> APPROACHING DOCK <input type="checkbox"/> <input type="checkbox"/> FISHING/HUNT <input type="checkbox"/> <input type="checkbox"/> LEAVING DOCK <input type="checkbox"/> <input type="checkbox"/> WATER SKIING <input type="checkbox"/> <input type="checkbox"/> RACING <input type="checkbox"/> <input type="checkbox"/> SCUBA DIVING <input type="checkbox"/> <input type="checkbox"/> TOWING <input type="checkbox"/> <input type="checkbox"/> SWIMMING <input type="checkbox"/> <input type="checkbox"/> BEING TOWED <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> MANEUVERING <input type="checkbox"/> <input type="checkbox"/> AT ANCHOR <input type="checkbox"/> <input type="checkbox"/> DRIFTING <input type="checkbox"/> <input type="checkbox"/> TIED TO DOCK <input type="checkbox"/> <input type="checkbox"/> UNKNOWN <input type="checkbox"/> <input type="checkbox"/> WHITEWATER OPERATION <input type="checkbox"/> <input type="checkbox"/> OTHER (Specify)		<b>WEATHER</b> <input type="checkbox"/> Clear <input checked="" type="checkbox"/> Cloudy <input type="checkbox"/> Rain <input type="checkbox"/> Snow <input type="checkbox"/> Hazy <input type="checkbox"/> Fog <input type="checkbox"/> Unknown	<b>WIND</b> <input type="checkbox"/> None <input checked="" type="checkbox"/> Light (0-6 MPH) <input type="checkbox"/> Moderate (7-15 MPH) <input type="checkbox"/> Strong (15-25 MPH) <input type="checkbox"/> Storm (Over 25 MPH) <input type="checkbox"/> Unknown  Wind Direction <u>WEST</u> Est. Air Temp <u>80</u>	<b>WATER</b> <input checked="" type="checkbox"/> Calm <input type="checkbox"/> Choppy <input type="checkbox"/> Rough <input type="checkbox"/> Very Rough <input type="checkbox"/> Strong Current <input type="checkbox"/> Flood <input type="checkbox"/> Ebb <input type="checkbox"/> Unknown  Est. Temp <u>68</u>	<b>LIGHT</b> <input checked="" type="checkbox"/> Day <input type="checkbox"/> Dawn <input type="checkbox"/> Dusk <input type="checkbox"/> Dark <input type="checkbox"/> Moon <input type="checkbox"/> Artificial <input type="checkbox"/> Unknown

TRAFFIC	REQUIRED EQUIPMENT ON BOARD						CONTRIBUTING FACTORS	
	VESSEL 1				VESSEL 2		1 2	
	Yes	No	Used	Unk	Yes	No	Used	Unk
<input type="checkbox"/> None <input checked="" type="checkbox"/> Light <input type="checkbox"/> Medium <input type="checkbox"/> Heavy <input type="checkbox"/> Congested <input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No <input checked="" type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No	<input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No <input type="checkbox"/> No
						Personal Flotation Devices Victim Wearing PFD Fire Extinguishing Device Flame Arrestor Navigation (Lights, Shapes, Whistles, Foghorns, Bells, etc)	<input type="checkbox"/> Excessive Speed <input type="checkbox"/> No Proper Lookout <input type="checkbox"/> Operator Inattention <input type="checkbox"/> Operator Inexperience <input type="checkbox"/> Negligent/Rockless Operation <input type="checkbox"/> Overloading <input type="checkbox"/> Improper loading <input type="checkbox"/> Alcohol Use <input type="checkbox"/> Drug Use <input type="checkbox"/> Fault of Other Person	<input type="checkbox"/> Fault of Hull <input type="checkbox"/> Fault of Machinery <input type="checkbox"/> Fault of Equipment <input type="checkbox"/> Wake <input type="checkbox"/> Weather Conditions <input type="checkbox"/> Hazardous Waters <input type="checkbox"/> Unknown <input type="checkbox"/> None Indicated <input type="checkbox"/> Other (Specify)

<b>EMT AID ADMINISTERED BY:</b> <input type="checkbox"/> Police <input type="checkbox"/> Refused <input type="checkbox"/> Fireman <input checked="" type="checkbox"/> None <input type="checkbox"/> Ambulance Personnel <input type="checkbox"/> Unknown <input type="checkbox"/> Other (Specify)	<b>TIME EMS REQUESTED:</b> <u>1921</u>	<b>INJURED TAKEN BY:</b> <u>MSP TRUCKER 6</u>	<b>CHARGE - LIST SECTION</b> <input checked="" type="checkbox"/> Yes <u>NR 8-704 / 08.18.02.05L</u> <input type="checkbox"/> No
	<b>EMS ARRIVED TIME:</b> <u>1935</u>	<b>INJURED TAKEN TO:</b> <u>BALTIMORE SHOCK TRAUMA</u>	<b>CHARGE - LIST SECTION</b> <input checked="" type="checkbox"/> Yes <u>NR 8-704 / 08.18.02.05L</u> <input type="checkbox"/> No

AGRAM (Label the vessel(s) with their respective number: 1, 2, etc.)

SHOW NORTH BY ARROW



VAR	A	B	C	D	E	1	2	3	4	5	6	7	8	9
	Pl. Refused signed													